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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/699,444
Filing Date: October 31, 2003
Appellant(s): MUKHERJEE ET AL.

James D. Shaurette
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/10/09 appealing from the Office action
mailed 7/15/09.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct, however, on page 2 of the Appeal Brief, the applicant has provided Fig.3, page 10, line 3, for the limitation of "arranging scalable media data into data structures formatted in accordance with a content independent indexable data structure format including one or more fields indicating a level of scalability, the cited portions of the specification does not describe a content independent indexable data structure, page, 11 para.0040, describes the content independent indexable data structure as claimed.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 6,490,627	Kalra et al.	12-2002
US 5,928,330	Goetz et al.	07-1999
US Publication 2004/0070786	Molteno	04-2004
US Publication 20020113865	Yano et al.	08-2002
US 7,281,213	Callegari, Andres C.	10-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 35-41,45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,490,627 issued to Kalra et al.(Kalra) in view of US Patent 5,928,330 issued to Goetz et al.(Goetz) in further view of US Publication 2004/0070786 issued to Molteno.

As per claims 1 Karla teaches a communications method in an interactive session comprising: organizing the scalable media data into a plurality of subparts(Fig.2A, col.5, lines 4-23); wherein at least two of the participants support different levels of scalability for the media data(Abstract, col.2, lines 8-13, 28-44); and communicating the subparts at the retrieved levels of scalability to respective ones of the participants(col.2, lines 28-44).

Karla does not explicitly teach arranging scalable media data into data structures formatted in accordance with a content independent indexable data structure format including one or more fields indicating a level of scalability; organizing the arranged scalable media data in a bit stream in which a plurality of levels of scalability of the scalable media data coexist; receiving a plurality of data requests from a plurality of participants requesting different ones of the subparts during user interaction with the media data, retrieving from the bit stream using the format of the content independent indexable data structures respective ones of the requested subparts at levels of scalability corresponding to receiving attributes of the respective participants.

Goetz arranging scalable media data into data structures formatted in accordance with a content independent indexable data structure format including one or more fields indicating a level of scalability(col.4, lines 56-col.5, line 25, col.7, lines 40-45); organizing the arranged scalable media data in a bit stream in which a plurality of levels of scalability of the scalable media data coexist(col.4, lines 56-col.5, line 25, col.7, lines 40-45); retrieving from the bit stream using the format of the content independent

indexable data structures respective ones of the requested subparts at levels of scalability corresponding to receiving attributes of the respective participants (col.4, lines 56-col.5, line 25, col.7, lines 40-45).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kalra to include arranging scalable media data into data structures formatted in accordance with a content independent indexable data structure format including one or more fields indicating a level of scalability; organizing the arranged scalable media data in a bit stream in which a plurality of levels of scalability of the scalable media data coexist; retrieving from the bit stream using the format of the content independent indexable data structures respective ones of the requested subparts at levels of scalability corresponding to receiving attributes of the respective participants as taught by Goetz in order to easily manage and control of multimedia having various media streams with a specific type, subtype, and encoding rate (Goetz, col.2, lines 56-67).

One ordinary skill in the art would have been motivated to combine the teachings of Kalra and Goetz in order to easily manage and control of multimedia having various media streams with a specific type, subtype, and encoding rate (Goetz, col.2, lines 56-67).

Kalra in view of Goetz however does not explicitly teach receiving a plurality of data requests from a plurality of participants requesting different ones of the subparts during user interaction with the media data.

Molteno teaches providing a plurality of data requests from a plurality of participants requesting different ones of the subparts during user interaction with the media data(Abstract, para.0013).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kalra in view of Goetz to include providing media during user interaction with media as taught by Molteno in order to improve performance of communication of media based the preferences of the users or communication link(Molteno, para.006).

One ordinary skill in the art would have been motivated to combine the teachings of Kalra, Goetz and Molteno in order to in order for more efficient transfer of media over a communication based on the preference of the user (Molteno, para.006).

As per claim 2, the method of claim 1 further comprising accessing random subparts corresponding to the data requests, and wherein the scaling comprising scaling the accessed subparts(Molteno, para.0013). Motivation to combine set forth in claim 1.

As per claim 3, the method of claim 1 wherein the receiving attributes relate to unique parameters of the participants with respect to at least one communications bandwidth, display resolution, and processing capacity(Kalra, Abstract, Molteno, para.0006). Motivation to combine set forth in claim 1.

As per claim 4, the method of claim 1 further comprising performing transcoding operations without decoding the media data(Goetz, col.4, lines 56-col.5, lines 25, col.7, lines 40-45). Motivation to combine set forth in claim 1.

As per claim 5, wherein the initial one of the subparts corresponds to an initial visual image to be depicted by the participants, and the forwarding of the initial one of the subparts comprises forwarding a plurality of data streams of different amounts of data corresponding to the receiving attributes of the respective participants(Kalra, Abstract, Fig.16A2-A3, col.2, lines 28-43, Molteno, para. 0006,0015). Motivation to combine set forth in claim 1.

As per claim 6, the method of claim 5 further comprising depicting the initial visual image at a plurality of different resolutions using the participants and responsive to the data streams comprising different amounts of data(Kalra, Abstract, Fig.16A2-A3, col.2, lines 28-43, Molteno, para. 0006,0015). Motivation to combine set forth in claim 1.

As per claims 7, further comprising depicting visual images of the media data using the participants, wherein the initial one of the subparts comprises an initial visual image, and the data requests correspond to interactive commands generated by the participants requesting additional views of the initial visual image(Molteno, para.0006, 0013,0015). Motivation to combine set forth in claim 1.

As per claims 8, the method of claim 1 further comprising: performing transcoding operation without knowledge of the data content(Goetz, col.4, lines 56-col.5, lines 25, col.7, lines 40-45). Motivation to combine set forth in claim 1.

As per claims 9, the method of claim 1 further comprising performing transcoding operations without decrypting the media data(Goetz, col.4, lines 56-col.5, lines 25, col.7, lines 40-45). Motivation to combine set forth in claim 1.

As per claim 35, Kalra teaches a communications session organizer(Abstract) comprising: an interface configured to communicatively couple with a plurality of participants during an interactive media communications session(Abstract); and processing circuitry coupled with the interface and configured to access a plurality of data requests from the participants during the communications session, and to output the scaled media data to respective ones of the participants (Abstract, col.2, lines 8-13, 28-44).

Kalra does not explicitly teach to identify a plurality of subparts of scalable media data responsive to the requests, to scale the subparts of the media data according to respective receiving attributes of the participants.

Goetz to scale the subparts of the media data according to respective receiving attributes of the participants (col.4, lines 56-col.5, line 25, col.7, lines 40-45).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kalra to include to scale the subparts of the media data according to respective receiving attributes of the participants as taught by Goetz in order to easily manage and control of multimedia having various media streams with a specific type, subtype, and encoding rate(Goetz, col.2, lines 56-67).

Kalra in view of Goetz does not explicitly teach to identify a plurality of subparts of scalable media data responsive to the requests.

Molteno teaches to identify a plurality of subparts of scalable media data responsive to the requests(Abstract, para.0013; certain regions of the image data is transmitted first) .

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kalra in view of Goetz to to identify a plurality of subparts of scalable media data responsive to the requests as taught by Molteno in order to improve performance of communication of media based the preferences of the users or communication link(Molteno, para.006).

One ordinary skill in the art would have been motivated to combine the teachings of Kalra, Goetz and Molteno in order to improve performance of communication of media based the preferences of the users or communication link(Molteno, para.006).

As per claim 36, the organizer of claim 35 further comprising storage circuitry configured to store the scalable media data(Kalra, Fig.1).

As per claim 37, the organizer of claim 35 wherein the processing circuitry is further configured to communicate an initial one of the subparts of scalable media data corresponding to an initial visual image to be depicted by the participants(), and the communicated initial one of the subparts comprises a plurality of data streams of different amounts of data corresponding to the receiving attributes of the respective participants(Kalra, Abstract, Fig.16A2-A3, col.2, lines 28-43, Molteno, para. 0006,0015).

Motivation to combine set forth in claim 35.

As per claim 38, the organizer of claim 35 wherein the processing circuitry is further configured to communicate an initial one of the subparts of scalable media data corresponding to an initial visual image to be depicted by the participants, and wherein the data requests correspond to interactive commands generated by the participants

requesting additional visual images related to the initial visual image(Molteno, para.0006, 0013,0015). Motivation to combine set forth in claim 35.

As per claim 39, the organizer of claim 35 wherein the processing circuitry is configured to access an index using the data requests to identify the subparts(Goetz, Fig.4D, col.8, lines 1-8). Motivation to combine set forth in claim 35.

As per claim 40, the organizer of claim 35 wherein the processing circuitry is configured to receive the receiving attributes from the participants, and further comprising storage circuitry configured to store the receiving attributes(Kalra, col.2, lines 27-44)..

As per claim 41, the organizer of claim 35 wherein the processing circuitry is configured to cause the interface to communicate first content of the scalable media data regarding a first portion of a subject at an initial moment in time, and wherein the data requests request second content of the scalable media data regarding a second portion of the subject different than the first portion of the subject at a subsequent moment in time after the initial moment in time(Kalra, Abstract, Fig.16A2-A3, col.2, lines 28-43, Molteno, para. 0006,0015,para.0024). Motivation to combine set forth in claim 35.

As per claim 45, the organizer of claim 35 wherein the processing circuitry is configured to arrange the scalable media data into the subparts in accordance with a content independent index and to use the content independent index to scale the subparts of the media data(Goetz, (col.4, lines 56-col.5, line 25, col.7, lines 40-45). Motivation to combine set forth in claim 35.

As per claims 46-50, do not teach or further define over the limitations in claims 1-9,35-41,45 . Therefore claims 46-50 are rejected for the same reasons set forth above. **NOTE:** As per claim 46, an article of manufacture comprising: processor-usable media, para.0034 of specification, recites processor-usable media as hardware, e.g. floppy diskette, zip disk, disk drive, etc. therefore deemed to be statutory.

Claims 42,43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,490,627 issued to Kalra et al.(Kalra) in view of US Patent 5,928,330 issued to Goetz et al.(Goetz) in further view of US Publication 2004/0070786 issued to Molteno in further view of US Publication 2002/0113865 issued to Yano et al.(Yano).

Kalra in view of Goetz in further view of Molteno does not explicitly teach as per claim 42, the organizer of claim 41 wherein the first content is void of data regarding the second portion of the subject.

Yano explicitly teaches wherein the first content is void of data regarding the second portion of the subject(para.0064, Fig.8A and 8B, teaches two images, one with a background and a left image, and one image with a background, left, and right image, therefore teaches a first content void of the second portion).

Taking in to consideration The Supreme Court in KSR International Co. v. Teleflex Inc., 550 U.S. ___, ___, 82 USPQ2d 1385, 1395-97 (2007), it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teaching of Kalra in view of Goetz in further view of Molteno to include the feature of

having the first content is void of data regarding the second portion of the subject as taught by Yano in order to display different images at different times.

One ordinary skill in the art would have been motivated to combine the teachings of Kalra and Yano in order to display different images at different times.

As per claim 43, the organizer of claim 41 wherein the second portion is a portion of the subject not included in the first portion of the subject(Yano, para.0064, Fig.8A and 8B, teaches two images, one with a background and a left image, and one image with a background, left, and right image, therefore teaches a first content void of the second portion). Motivation to combine set forth in claim 42.

Claims 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,490,627 issued to Kalra et al.(Kalra) in view of US Patent 5,928,330 issued to Goetz et al.(Goetz) in further view of US Publication 2004/0070786 issued to Molteno in further view of US Patent 7,281,213 issued to Callegari.

Kalra in view of Goetz in further view of Molteno does not explicitly teach as per claim 44, the organizer of claim 41 wherein the scalable media data comprises image data of an image of the subject, and the first portion comprises a first view of the subject and the second content comprises a second view of the subject different than the first view, and wherein a portion of the subject contained in the second view is not included in the first view.

Callegari explicitly teaches the method of viewing an image from different angles(col.1, lines 40-58).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kalra in view of Goetz in further view of Molteno to include viewing an image from different angles as taught by Callegari in order to view different aspect of an image, e.g. objects not seen in one view could be seen in a different view.

One ordinary skill in the art would have been motivated to combine the teachings of Kalra, Goetz, Molteno, and Callegari in order to view different aspect of an image, e.g. objects not seen in one view could be seen in a different view.

(10) Response to Argument

The applicant argues in substance,

A) there is no motivation to combine Kalra, Goetz, and Molteno, pages 4-6

In reply to A); In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Kalra's system of encoding, transmitting and decoding multimedia information in the form of streamed digital data, col.1, line 5-10, in which digital multimedia data is adaptive/scalable. The digital multimedia media are created so that the subset of the

digital data allows for distortion free reproduction of images and sounds at different resolution, depending on the a desired resolution profile factors, col.4, lines 1-27.

Goetz's system also used for organizing multimedia information to a new file format, in which there are several instance of a particular media type, with each instance having different characteristics, col.2, lines 55-67. In further, to determine a suitable instance of a media stream, the network characteristics is taking into consideration for efficiently use network resources while minimizing the efficiently of the adaptation o the quality of the presentation, col.4, lines 34-53.

Goetz's system improves that of Kalra's system since, it also taking into consideration the network characteristics when determining to stream a certain media stream. The combination of Kalra and Goetz would provide a system in which both a profile of client capability and the network characteristics would be used to determine the type and encoding rate to stream media(Goetz, col.2, lines 56-67).

Moltento's system is used for decreasing the time required to perform image-data based task over communication links, para.0002. In further, the client can select a certain region of image data to be transmitted first, this reduces the time it takes to transmit data since transferring a portion of an image will take less time than transferring the whole image, para.0013. Moltento takes into consideration the largest amount of data that can be transmitted over the communication link in a specified time interval, para.0015.

Moltento is deemed to be analogous art since there is use of communication link for transferring of a type of media file. The teaching of Moltento would enable the

transfer of media with a shorter time period based on a selection a specific region of a media file which would improve the system of Kalra in view of Goetz's system of media transfer based up on a profile of client capability and the network characteristics in order for more efficient transfer of media over a communication based on the preference of the user, Moltento, para.0006. The combination of Kalra, Goetz, and Moltento would produce a system where, a profile of client capability, network characteristics, and a user's preference of media would be transmitted efficiently.

B) As per claims 1-9, Kalra in view of Goetz, in view of Moltento, does not teach, "arranging the scalable media into data structures formatted in accordance with content independent indexable data structure format" in particular whether Goetz teaches "independent indexable data structure, page 7-9,

In reply to B); The applicant's specification page 11, para.0040, recites "The media data is arranged into a **generic format regardless of content of the media data** permitting generic transcoding wherein the **transcoding operations are performed without knowledge of the data content** and without decrypting or decoding the media data enabling a single infrastructure (e.g., organizer 12) to deliver the media data according to a plurality of scales in one embodiment"

Based upon the applicant's specification, "content independent indexable data structure format" is a format that is not dependant on the content of the media.

Goetz, col.9, lines 42-56, teaches audio/video encoding to a predetermined format, such as such as H.263 for video and G.723 for audio. Further, col.11, lines 48-67, col.13, lines 1-67 teaches statistics collected on the network such as, bit rate throughput; network jitter; round-trip when encoding data, e.g. encoding the data for a

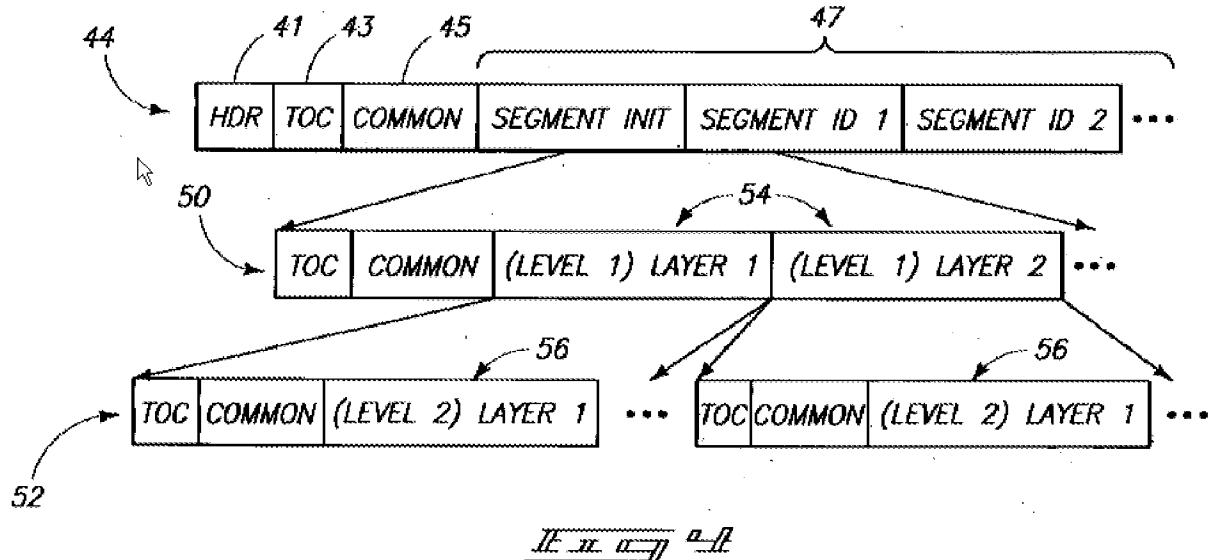
target transfer rate of 28.8 kb/s or encoded for a target transfer rate of 14.4 kb/s, col.5, lines 22-25. Therefore Goetz teaches, “a content independent indexable data structure format”, since network statistics is used for encoding data, it is independent of the content and dependant on the network.

The applicant argues that, Goetz, col.6, lines 35, that there is *important information* indicative of the relative importance of the packet and that since there is important information that it is content dependent. The examiner disagrees, the important information cited in Goetz, col.6, lines 35, refers to file header. The file format of Goetz, col.5, lines 30-37, includes a file header and file body, where the **file header describes the file itself and the content of the file body and includes information used to locate data in the file body**. The file header is similar to that of the applicant's header, page 11, para.0042, where the header provides the actual order for a given media in the bit stream.

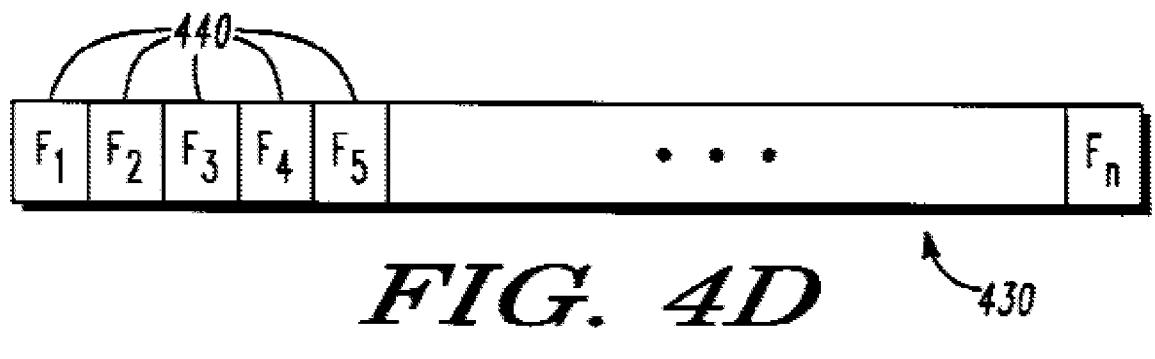
C) As per claim 39, Kalra in view of Goetz in view of Molteno, does not teach, “processing circuitry to configured to access an index using the data requests to identify the subparts”, in particular does not teach an index, page 9-10,

In reply to C); The index as described in the applicant's specification, Fig.4, page 11, para.0041, describes the subpart as small compared to the entire bit stream, element 47.

Fig.4 shows



Goetz, Fig.4D, col.8, lines 1-3, shows a generic media block body in which includes number of packets in the stream, element 440. Fig.4D shows



These data packets, element 440 is interpreted as the subpart, element 47. Therefore Goetz teaches an index.

Kalra, Fig.7A, B also teaches index of subparts of data stream.

D) As per claim 41, Kalra in view of Goetz in view of Molteno does not teach, "the processing circuitry is configured to cause the interface to communicate first content of the scalable media data regarding a first portion of a subject at an initial moment in time, and wherein the data requests request second content of the scalable media data regarding a second portion of the subject different than the first portion of the subject at a subsequent moment in time after the initial moment in time", page 10-11,

In reply to D); The interpretation of the claim is merely selecting a different portion of media at different times.

Molteno, para. 0006,0015,0022, 0024, teaches a user can select multiple region of interest, therefore teaches selecting different portion of a media file at different times.

The applicant argues that Molteno's selection of different portions of the *same image*, is not "second portion of **the subject** different than the first portion of **the subject**", the claim language requires only different portions of the same subject, it does not recite the subject being different. Therefore, Molteno, teaches the method of selecting a first and section portion of the subject, and can be applied to streaming of video of Kalra to select different portions of a multimedia file at different times.

E) As per claim 45, Kalra in view of Goetz in view of Molteno does not teach, "the processing circuitry to configured to arrange the scalable media data into the subparts in accordance with a content independent index and to use the content independent index to scale the subparts of the media data", in particular "content independent", page 11-12,

In reply to E); The applicant makes the same arguments as in **A**, see above.

F) As per claim 49, Kalra in view of Goetz in view of Molteno, does not teach, “programming is configured to cause processing circuitry to access an index of the scalable media data responsive to the data requests; and identifying the respective ones of the different subparts using the index”, in particular, “an index”, page 12

In reply to F); The applicant makes the same argument as in **C**, see above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Backhean Tiv /

/John Follansbee/

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Supervisory Patent Examiner, Art Unit 2451

Application/Control Number: 10/699,444
Art Unit: 2451

Page 20